
MANAGEMENT

OVERTIME POLICY

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PURPOSE This Guide describes the policy regarding the use of overtime in the Center for Drug Evaluation and Research (CDER) and specifies the responsibilities and procedures for requesting, authorizing and recording overtime within the Center.

BACKGROUND

- CDER maintains a high-profile role within the FDA, and is often required to be responsive to dynamic policy and process demands. The heavy scientific and timeliness requirements placed on CDER employees, not always predictable or evenly distributed over time, often require that employees put in long hours. Recent increases in staff should mitigate, but may not eliminate, this need.
- A number of mechanisms exist to assure that work is completed consistent with CDER's high standard of quality and timeliness. These include: the Alternative Work Schedules (AWS) program and Flexible Workplace Arrangements Program (FWAP), established recently to provide a wide range of potential work arrangements to enhance flexibility in employee scheduling to facilitate management of office workload, and compensation with paid overtime of employees who work hours beyond their normal tour of duty.
- SES employees, employees paid under Title 38, and officers of the PHS Commissioned Corps may not earn overtime. For some positions, overtime pay for

extra hours worked is required by the Fair Labor Standards Act (FLSA). Typically, these employees are classified at GS-4 and below and GS-5 through GS-10 unless they are executive, administrative or professional employees as defined in the Pay Administration section of the FLSA. Managers may determine which employees fall into this category by checking item 35 (FLSA Category) on an employee's most recent SF-50-Notification of Personnel Action. Employees who are marked "N," for non-exempt, must be paid for overtime whether requested or not, provided the employee's supervisor knows or has reason to believe that the work is being performed and has had an opportunity to prevent the work from being performed.

- CDER has recently been given authority to manage its salary budget, including a specified overtime allotment.

REFERENCES

- FDA SMG 3115.1, Procedures Regarding Overtime and Temporary Exceptions to Administrative Workweeks
- FDA SMG 1430.5, Authority to Approve Overtime
- CDER MAPP 4657.1, Alternative Work Schedules (AWS)
- CDER MAPP 4657.2, Flexible Workplace Arrangements Program (FWAP)
- 5 CFR Part 551 - Pay Administration under the Fair Labor Standards Act.

POLICY

- CDER's policy is to support the judicious use of overtime to meet very unusual or non-recurring workloads that cannot be managed with flexible scheduling arrangements, details of personnel, or workload shifts (see attached list of examples). Use of overtime should not become a routine component of compensation, and should be considered only under highly exceptional circumstances for professional staff.
- Supervisors are expected to manage work assignments, identifying situations in which the use of overtime is appropriate and unavoidable, and ensuring that overtime is used most effectively, efficiently, and fairly. Supervisors must also assure that work objectives are met.
- Employees are responsible for managing their normal work hours effectively and efficiently to complete all assignments, especially those that are critical.
- Generally, overtime must be requested and approved prior to use. Overtime requests are made using "Overtime Request and Authorization" Form FDA 211. Request may cover only one pay period and must be approved by the Office

Director. In instances where the need for overtime cannot be predicted (e.g., emergency need for a special project) and the Office Director is unavailable, the supervisor may permit the use of overtime, but overtime will not be compensated until the "Overtime Request and Authorization" Form FDA 211 has been signed by the Office Director.

- The number of hours for which overtime will be compensated in any pay period may not exceed those requested in the Form FDA 211. Additional hours worked will be compensated only after a new form has been completed and approved.
 - The Center will provide overtime budget allotments to each Office. Offices that do not spend their allotted overtime dollars may use those funds for other operating expenses (e.g., travel, training). Overtime allotments may not be supplemented with other operating funds nor may overtime funds be transferred between Offices.
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RESPONSIBILITIES

- **Employees are responsible for:**
 1. Managing personal workloads to avoid the need for overtime. Employees should discuss with their supervisors any inability to complete assigned work within the usual tour of duty.
 2. Requesting overtime authorization from immediate supervisors.
- **Requesting Supervisors are responsible for:**
 1. Determining the need for overtime. Overtime should be requested only when it is expected that "normal" working hours are fully used and that flexible scheduling of working hours or shifting of workload cannot meet the demands.
 2. Assuring a Form FDA 211 is prepared and signing the completed form.
 3. Submitting the completed form for approval to the Office Director before the work is to be performed. (Or submitting the form for approval to the Office Director as soon as possible when overtime has been worked on an emergency basis, i.e., without prior approval.)
 4. Notifying employee(s) that overtime has been approved.
 5. Ensuring that overtime is used effectively to accomplish the designated objective(s).

- **Office Directors are responsible for:**
 1. Evaluating overtime requests and approving or denying them; notifying requesting supervisor of decision.
 2. Managing the overtime budget for the Office.
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PROCEDURES

1. Employee will discuss the need for overtime with his/her supervisor. Alternative mechanisms for accomplishing the work will be discussed.
 2. The requesting supervisor will assure that an FDA 211 Form is prepared and submitted to the Office Director for approval before the work is to be performed. (NOTE: Emergency exception is described above.)
 3. If overtime is approved, the requesting supervisor will notify the affected employee(s) and assure that the overtime is effectively used to accomplish the designated objective.
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REDELEGATION

The Center Director has redelegated authority to approve overtime to Office Directors with no further redelegation authorized at this time.

EFFECTIVE DATE

This guide is effective upon date of publication.

Attachment A

Potential Appropriate Uses of Overtime

As stated in this MAPP, the use of overtime to assure that work is completed should not become a routine component of compensation and should be considered only under highly exceptional circumstances for professional staff. It is the responsibility of supervisors to carefully assess each employee's work assignments and determine efficient utilization of his/her regular tour of duty before authorizing the use of overtime. This represents a change in many components of the Center, where the authorization of use of overtime has been somewhat automatic and used routinely by professional as well as support staff.

The Center supports judicious use of overtime to meet very unusual or non-recurring workloads that cannot be managed with flexible scheduling arrangements, temporary details of personnel, or workload shifts. Following is a list of examples of circumstances under which the use of overtime may be appropriate. **This list should not be considered to be comprehensive, nor do the situations represent circumstances for which overtime compensation is mandatory.**

- The workload and deadlines for clerical/support staff are often generated by supervisors, affording support personnel little flexibility. In instances where projects are assigned which have a very short deadline and/or require very high levels of support (e.g., many pages of typing, large-volume copying), authorization of overtime is appropriate.
- For professionals, the use of overtime might be considered appropriate when an individual or group of individuals are performing tasks considered "above and beyond" -- tasks outside of their routine job assignments or job description. For example:
 - providing review or support assistance to another Division or program whose workload has exceeded their ability to meet critical deadlines
 - temporarily assuming another individual's responsibilities during e.g., vacation, illness, maternity leave, details
 - working excess hours to address a public health emergency
 - working excess hours to accomplish tasks clearly outside of usual responsibilities, e.g., coming to the office on a weekend or evening to help with a move
 - working excess hours on projects generated by organizations outside of CDER, e.g., Office of the Commissioner special projects, Office of Chief Counsel projects (e.g., litigation), OMB, GAO
 - working excess hours on special projects or assignments with very short deadlines requested by the Center, Office or other management level officials